IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11397 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAJIR ISHAKBHAI MINYANA

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 11397 of 2002

MR ANIL S DAVE for Petitioner No. 1

MR KAMEN N SHUKLA for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

The petitioner-detenu by filing this petition has challenged his detention order passed against him on 29-10-2002 under Prevention of Anti Social Activities Act (for short "PASA"). By the said order the petitioner is detained as a "bootlegger". The petitioner is also

served with the grounds of detention. In the said grounds of detention, there is a reference of one criminal case pending against the petitioner under Bombay Prohibition Act. The said case is under investigation. The detaining authority, after satisfying about the activities of the petitioner, has detained him under the preventive detention. On behalf of the petitioner, it is submitted that criminal case was filed against the petitioner on 27-10-2002. On the same day, statement of witnesses were recorded and the same were verified on 28-10-2002 by the detaining authority and on the next day, i.e. 29-10-2002 the order of detention is passed. It is submitted that in view of the short span of period between recording of statement and passing the order of detention, it can be presumed that the authority has passed the order of detention without proper consideration and in a mechanical manner.

2) In the instant case, the order of detention order is passed within two days from the date of incident. In this case, after verifying the statements on the very next date, detention order is passed. In view of this, it is clear that the order is passed in a mechanical manner. In that view of the matter, the order of detention is required to be set aside.

3) Accordingly, this petition is allowed. The order of detention dated 29-10-2002 is quashed and set aside. The detenu, Najir Ishakbhai Minyana is ordered to be set at liberty forthwith, if he is not required in connection with any other case. Rule is made absolute.

(P.B.MAJMUDAR, J.)
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